

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HUBERT VAUGHN THOMAS,	)	
ID # 2090824,	)	
Petitioner,	)	
	)	
vs.	)	No. 3:19-CV-957-B-BH
	)	
DIRECTOR, Texas Department of Criminal	)	
Justice, Correctional Institutions Division,	)	
Respondent.	)	

AMENDED ORDER ACCEPTING FINDINGS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE AND  
DENYING CERTIFICATE OF APPEALABILITY

Before the Court are the petitioner's *Objection to the Magistrate Findings, Conclusions and Recommendation* and *Motion for Certificate of Appealability*, received on February 15, 2022 (docs. 22, 24).

On January 31, 2022, the United States Magistrate Judge recommended that the petitioner's habeas corpus petition under 28 U.S.C. § 2254 be denied with prejudice. (See doc. 19.) On February 14, 2022, the Court accepted the Magistrate Judge's recommendation, denied a certificate of appealability, and entered judgment denying the petitioner's § 2254 petition with prejudice, not having seen the petitioner's objection or motion for a certificate of appealability. (See docs. 20, 21.) In light of the petitioner's *pro se* status and the interest of justice, the Court now considers the objection and the motion.

After a *de novo* review of those portions of the proposed findings and recommendation to which objection was made, the Court **OVERRULES** the petitioner's objection. Therefore, the judgment entered on February 14, 2022 remains undisturbed.

Having reviewed all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and the petitioner's objection thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court. For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the *Petition for a Writ of Habeas Corpus by a Person in State Custody*, received on April 19, 2019 (doc. 3), is **DENIED** with prejudice.

In accordance with Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c) and after considering the record in this case and the recommendation of the Magistrate Judge, the petitioner is **DENIED** a Certificate of Appealability. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions, and Recommendation in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).<sup>1</sup>

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<sup>1</sup> Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, as amended effective on December 1, 2019, reads as follows:

(a) **Certificate of Appealability.** The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue. If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2). If the court denies a certificate, the parties may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. A motion to reconsider a denial does not extend the time to appeal.

(b) **Time to Appeal.** Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order entered under these rules. A timely notice of appeal must be filed even if the district court issues a certificate of appealability.

In the event that the petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* that is accompanied by a properly signed certificate of inmate trust account.

SIGNED this 18<sup>th</sup> day of February, 2022.



JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE